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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/460,836 12/14/99 COSMO

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QM22/0222

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EXAMINER

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SIPOS, J	
ART UNIT	PAPER NUMBER

3721

DATE MAILED:

02/22/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/460,836

Applicant(s)

COSMO, GUY A.

Examiner

John Sipos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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Claims 1-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 9 is rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Wirsig (5,247,779) or Lane (2,966,021). These patents show a packaging machine with a feeder spool and a sealing and severing means downstream from the spool comprising of a heated bar with a flat head and an opposing sealing surface with a sharp surface. See 33,39 in Figure 1 of Wirsig and Figures 9,10 of Lane.

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 11 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Wirsig (5,247,779) or Lane (2,966,021) as applied above and further in view of Fukuda (5,347,795) or Goodwin (3,766,710). The basic references lack the showing of gear connected pivot arms. The patents to Fukuda and Goodwin show machines in which the sealing mechanisms are mounted on opposing pivot arms 12 (Figures 1 and 14) and 173 (Figure 16), respectively that are connected by gears 28 and 181, respectively, and which are actuated by a motor and a piston actuator, respectively. It would have been obvious to one skilled in the art to provide the sealing mechanism of the basic references with a supporting pivoting structure as shown by Fukuda or Goodwin so that a more synchronized operation of the sealing arms is achieved. In the case of Fukuda, the use of a piston instead of a motor to actuate the sealing arms would have been an obvious modification.

Claims 9,12,13 and 15 are rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Merritt (3,094,823). The patent shows a packaging machine with a feeder spool holding a folded packaging means, an inverting mechanism comprising of feed rollers 20,30 and V-shaped wires 50,51 that reposition and open the folded material so that the fold is in a vertical orientation and a sealing and severing means 55,56 downstream from the inverting mechanism comprising of a heated bar with a flat head and an opposing sealing surface with a sharp surface.

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Claim 14 is rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Meritt. The use of adjusting means to adjust the position of a well known mechanism would have been an obvious modification to one skilled in the art to permit the handling of different size articles.

Claims 10 and 11 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Merritt as applied above and further in view of Fukuda (5,347,795) or Goodwin (3,766,710). The basic references lack the showing of gear connected pivot arms. . It would have been obvious to one skilled in the art to provide the sealing mechanism of Merritt with a supporting pivoting structure as shown by Fukuda or Goodwin so that a more synchronized operation of the sealing arms is achieved. In the case of Fukuda, the use of a piston instead of a motor to actuate the sealing arms would have been an obvious modification

ADDITIONAL REFERENCES CITED

The following prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

The patents to Shanklin, Runo and Miyazaki show packaging devices with material inverting means. Note that the Miyazaki patent shows the inversion of a folded

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tube so that the fold changes the direction of its movement by 90 degrees from a vertical to the horizontal.

The patent to Saumsiegle shows pivoting sealing arms that are connected by gears.


The patent to Ramsey shows opposing sealing surfaces with one having a sharp profile.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 5:00 PM Tuesday through Friday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.


John Sipos
Primary Examiner
Art Unit 3721

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